



WEB COPY

In the High Court of Judicature at Madras

Dated: 28.07.2015

Coram:

The Honourable Mr. SANJAY KISHAN KAUL, Chief Justice
and
The Honourable Mr. Justice T.S. SIVAGNANAM

Original Side Appeal Nos. 45, 46, 47 and 48 of 2015

Owners and persons interested in the
vessel MT Titan Vision, now lying at
The Port of Karaikkal and rep.
by its Master.

.. Appellant in all the appeals/Applicant Defendant

vs.

KTV Health Food Pvt. Ltd.

Rep. by its Director

having its Head Office

at JR Foods Ltd., Campus

Thirubuvanai, Puducherry - 605 107.

and its Registered Office

at 7/3, Arul Nagar Salai

R.V. Nagar, Kodungaiyur

Chennai 600 118. .. Respondent in all the appeals/Plaintiff

Prayer: Original Side Appeals filed under Order 36, Rule 11 of Original Side Rules read with Clause 15 of the Letters Patent, to set aside the common order and decree dated 23.12.2014 passed by the learned Single Judge, in Application Nos. 6124, 6259, 6260 and 6261 of 2014 in C.S.No.631 of 2014 on the file of this Court.

For Appellant : Mr. Amitara Majumdar, Sr. Counsel
for Mr. S .Vasudevan

For Respondent : Mr. M. Sunilkumar

COMMON JUDGMENT

(Delivered by The Hon'ble The Chief Justice)

We have heard the learned counsel for the parties for some time. What emerges is that the proper course of action at this stage would be for the appellant to move the learned Single Judge in view of the liberty given in para 62 of the impugned order without prejudice to the rights and contentions of the parties. In case, the appellant is able to persuade the learned Single Judge on the merits of that



application, the natural corollary would be for the suit to be referred to an International Arbitration.

2. On the other hand, if the appellant is unable to succeed before the learned Single Judge or any appeal arising therefrom, the parties are ad idem that the suit needs to be expedited. Such expedition is possible with the appellant filing the written statement at that stage, the issues being framed and the trial being recorded by a retired Judicial Officer of this Court, as the Board of the Master is already overloaded. The expenses of recording such evidence before the retired Judicial Officer, in that eventuality, is agreeable to be borne by the parties in equal share to facilitate completion of evidence within a period of three months and the suit can thereafter be heard on merits.

3. The aforesaid course of action has been made possible because the bank guarantee has since been furnished.

4. The observations in the impugned order naturally being prima facie in nature cannot prejudice the trial of the suit, if such eventuality arises.

5. The appeals are disposed of in the aforesaid terms by consent. No costs.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

ATR

To

The Sub Assistant Registrar,
Original Side, High Court, Madras.

4 cc to Mr. S.Vasudevan, Advocate Sr.No.38664,40659

O.S.A. Nos. 45 to 48 of 2015

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pmk.11.8.2015